

MEMORANDUM

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: COLEMAN & ASSOCIATES
JOHN M. COLEMAN

TIGHE F. HUDSON
Principal Deputy County Counsel
General Litigation Division

RE: Paul Leung Ho, et al. v. City of Rancho Palos Verdes, et al.
Torrance Superior Court Case No. YC 046031

DATE OF
INCIDENT: May 12, 2002

AUTHORITY
REQUESTED: \$750,000

COUNTY
DEPARTMENT: Department of Public Works

CLAIMS BOARD ACTION:

☐

Approve

☐

Disapprove

☒

Recommend to Board of
Supervisors for Approval



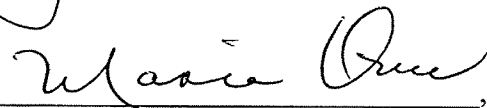
ROCKY A. ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on October 25, 2005

SUMMARY

This is a recommendation to settle for \$750,000 the dangerous condition lawsuit brought by Dr. Paul Leung Ho and his spouse Lydia Ho, individually and as guardian ad litem for their son, Mathew Ho, for Dr. Ho's personal injuries sustained in an automobile accident which occurred on May 12, 2002.

LEGAL PRINCIPLE

The County may be held liable for damages caused or contributed to by a dangerous condition of public property.

SUMMARY OF FACTS

This action arises out of a vehicle accident which occurred on May 12, 2002, in the intersection of Crestridge Road and Crenshaw Boulevard in the City of Rancho Palos Verdes ("City"). Dr. Ho was driving his vehicle eastbound on Crestridge Road attempting to turn left onto northbound Crenshaw Boulevard, when his vehicle was struck broadside by a vehicle traveling southbound on Crenshaw Boulevard. Mathew Ho was a passenger.

Crenshaw Boulevard runs in a north-south direction with a northerly downgrade. Crestridge runs in an east-west direction with a downgrade as it approaches Crenshaw. The intersection is located in a residential-suburban area. Crenshaw Boulevard and Crestridge Road are fully developed highways. The intersection is controlled by traffic signals for all directions. The posted speed limits in this area are 40 mph on Crestridge Road and 45 mph on Crenshaw Boulevard. There are left turn pockets in all directions.

The traffic signals at this location, along with numerous others on Crenshaw Boulevard in the City and other cities, were synchronized under a County Traffic Signal Synchronization Project (TSSP) completed in the mid-1990's. Since that time, the County has provided engineering assistance to the City on traffic signal issues presented at this location.

On the date of the accident, Dr. Ho (43 years of age) was employed as a board-certified pediatrician at Kaiser Hospital. Mathew, one of his three children, was eight years old. The driver of the other vehicle was 44-year-old Jennifer Cohn. Dr. Ho sustained serious, permanent and disabling personal injuries in the accident, necessitating extensive hospitalization and now requiring lifetime medical care. He suffers from paralysis to his left side and brain damage. He will require life-long assistance in daily living tasks.

The Sheriff's Department investigated the traffic accident. Because of the divergence in witness statements, it could not report the cause of the accident.

Plaintiffs maintain that Dr. Ho had legally entered the intersection prior to the collision, but that signal timing did not afford an adequate opportunity for vehicles turning left from Crestridge Road to clear the intersection prior to entry of cross traffic traveling on Crenshaw Boulevard. Signal operations, when synchronized, did not include an all-red signal phase, which provides motorists additional time to complete traffic movements prior to the green phase for cross traffic. The signal timing was changed following the accident to include an all-red phase.

Additional parties sued in the civil action include: the City, as the owner of the intersection, and the City's contract traffic engineers, Willdan and Norris Repke.

The County and City are sued for creating and maintaining a dangerous condition of public property, based on an allegation that they share legal responsibility for control of traffic signal operations at the location. Willdan and Norris Repke are sued for negligence in traffic engineering. Jennifer Cohn is sued for negligent operation of her vehicle.

DAMAGES

If the matter proceeds to trial, the claimants will likely seek the following:

Paul Ho

For past medical treatment	\$ 700,000
For future medical treatment (private care)	\$ 1,700,000
For loss of earnings and earning capacity, past and present	\$ 9,000,000
For general damages (including pain, suffering and non-economic damages)	\$20,000,000

Lydia Ho

For general damages for loss of consortium	\$ 3,000,000
---	--------------

Mathew Ho

For general damages for negligent infliction of emotional distress	<u>\$ 100,000</u>
Total	\$34,500,000

STATUS OF CASE

In July 2005, a Settlement Conference was commenced before Retired Judge Enrique Romero. After several sessions, this process resulted in a proposed global settlement in the total amount of \$8,850,000 which is allocated as follows:

City of Rancho Palos Verdes	\$ 6,000,000
Willdan	\$ 1,750,000
Norris Repke	\$ 350,000
County of Los Angeles	<u>\$ 750,000</u>
	\$ 8,850,000

Additionally, Jennifer Cohn's insurance carrier had previously paid the \$100,000 policy limit on her behalf to settle the lawsuit against her.

The trial date has been vacated pending the approval of this recommended settlement.

Expenses incurred by the County in defense of this matter are attorney's fees in the amount of \$355,086 and costs in the amount of \$175,000. The litigation, which represents a significant liability exposure to the County, required extensive preparation. The case was complicated by the numerous parties and the cross-actions and disputes among the defendants. Due to the inability of the parties to reach a reasonable settlement until shortly before the date of trial, it was necessary for the County to complete its pretrial preparation, including all pretrial motions, opposition to motions, and witness preparation.

The total cost to the County, as a result of the proposed settlement, is as follows:

Settlement Amount	\$ 750,000
County attorney's fees and costs	\$ <u>530,086</u>
Total	\$ 1,280,086

EVALUATION

Plaintiffs and the City contended that the County had control over signal operations at the time of the accident. The County attempted to remove itself from the litigation by filing a Motion for Summary Judgment on the basis that it did not control the property condition and could not be held liable. This argument was rejected by both the trial court and the Court of Appeal.

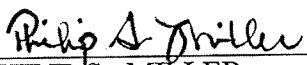
Although we believe that the traffic controls at the incident location were reasonable and appropriate, a jury could find that additional measures were needed, and that the County and the City shared control over signal operations.

The mediator originally proposed and recommended that the County contribute \$2,500,000 to a global settlement. The proposed settlement reflects a more limited degree of County potential liability. The settlement will avoid further litigation expenses and a potential jury verdict against County substantially in excess of the settlement amount. We believe this disposition is in the best interests of the County.

We join with our private counsel, Coleman and Associates, and our claims administrator, Carl Warren and Company, in recommending settlement in the amount of \$750,000.

The Department of Public Works concurs with this settlement.

APPROVED:


 PHILIP S. MILLER
 Assistant County Counsel
 General Litigation Division

PSM:TFH:pec

DEPARTMENT OF PUBLIC WORKS

CORRECTIVE ACTION PLAN

LAWSUIT OF: Paul Ho

INCIDENT DATE: May 12, 2002

INCIDENT LOCATION: Intersection of Crenshaw Boulevard and Crestridge Road,
City of Rancho Palos Verdes

RISK ISSUE:

The County's extent of liability in the operation of the Traffic Signal Synchronization Program (TSSP) within Cities.

INVESTIGATIVE REVIEW:

Crenshaw Boulevard is an 84-foot-wide north-south street and is striped for two travel lanes with both left and right turn pockets in each direction. Crestridge Road is a 64-foot-wide east-west street and is striped with one left turn lane, one shared through and left turn lane and one right turn lane for the west approach. The east approach has no markings or striping. Crosswalks are marked at all approaches to the intersection. The intersection is controlled by traffic signals for all directions.

The accident occurred on May 12, 2002. The Traffic Collision Report, prepared by the Sheriff's Department, indicates that Dr. Paul Ho was driving his car eastbound on Crestridge Road desiring to turn left onto northbound Crenshaw Boulevard. Ms. Cohn was traveling southbound on Crenshaw Boulevard approaching Crestridge Road. Dr. Ho's and Ms. Cohn's vehicles collided within the intersection. The report was unable to determine the cause of the accident.

POLICY ISSUES:

On March 22, 1988, the Board of Supervisors approved a Traffic Reduction and Free Flow Interagency Committee (TRAFFIC) to help coordinate the efforts of the County and its Cities to mitigate traffic congestion. One element of this effort is the Countywide TSSP. The Department of Public Works, with case-by-case assistance of private consultant engineers, has taken the lead in preparing basic and coordinated timing plans for existing traffic signals along designated TSSP routes. The basic and coordinated timing plan, as well as associated construction work (if any), is implemented once approved by the applicable City. In recent years, the Los Angeles County Metropolitan Transportation Authority (MTA) has provided a majority of the funding necessary for the TSSP work. Cities generally have received these operational enhancements to their traffic signals at no cost.

CORRECTIVE ACTION PLAN

Page 2

In 1990, the County approached the City of Rancho Palos Verdes, and other Cities along the route, regarding a proposal to synchronize the traffic signals on Crenshaw Boulevard. The City of Rancho Palos Verdes agreed to the proposal and the improvements were completed in 1995. This traffic signal is currently along an identified traffic synchronization route. When specifically requested by the City of Rancho Palos Verdes, the Department of Public Works would provide revised traffic signal timing to the City's representatives to ensure that coordination of the traffic signals on the route was kept intact. It is the County's position that the City maintains jurisdiction and control over the intersection. However, the occasional requests for revisions by the City created a legal question of control and jurisdiction.

At the time the traffic signal at the Crenshaw Boulevard/Crestridge Road intersection was synchronized with others on the route, Public Works utilized the CalTrans' Traffic Manual and Federal Highway Administration's Manual on Uniform Traffic Control Devices (MUTCD) in creating the timing plan.

Subsequent to the accident, the City of Rancho Palos Verdes adjusted the signal timing to include 1.5 seconds of an all red signal phase to the intersection which allows vehicles additional time to complete traffic movements prior to the green phase for cross traffic.

CORRECTIVE ACTION:

In conjunction with County Counsel and CAO Risk Management staff, review the current relationship with Cities and the MTA regarding the TSSP and other traffic applications such as Intelligent Transportation Systems, and develop and establish a protocol to identify and manage the County's risk of liability in the continued operation of the Traffic Signal Synchronization Programs within City jurisdictions.

GK:in

P0:correctiveactionplan-HO2.doc